

**REMARKS****Summary of the Office Action**

Claim 1 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-5 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,029,436 to Kufel Jr. et al. ("Kufel").

**Summary of the Response to the Office Action**

Applicant has amended claim 1.

Accordingly, claims 1 and 3-5 are presently pending for further consideration.

**Rejection Under 35 U.S.C. § 112**

Claim 1 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 has been amended to recite that there are two end portions, one of which extends from each of the two ends of the upper portion of the staple.

**Rejection Under 35 U.S.C. § 102(b)**

Claims 1-5 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kufel.

Claim 1 has been amended to recite that the support surface supports the center of the upper portion of the leading-end staple. Applicant respectfully traverses the rejection of the claims as amended.

The Office Action states that plate 36 of Kufel meets the limitation of the pusher of claim

1. However, plate 36 of Kufel does not have a support surface that supports the center of the upper portion of the leading-end staple as recited in claim 1. As clearly shown in Fig. 4 of Kufel, the portion of plate 36 located under the center of the upper portion of the leading end staple is lower than the beveled faces 38 of plate 36. Consequently, plate 36 includes nothing corresponding to the support surface recited in claim 1 because there is nothing to support the center of the leading-end staple. Although the “crown portion 29” of a staple blank rests on “anvil 33,” anvil 33 can also not correspond to the support surface recited in claim 1 because it is not part of a pusher that presses a leading-end staple to the guide surface as the pusher is required to do by claim 1. Instead, the anvil 33 is stationary and restrains plate 36 from excess movement. (col. 4, lines 16-19.) Thus, neither the plate 36 nor the anvil 33 of Kufel are analogous to the pusher recited in claim 1.

The member labeled 22 in Kufel corresponds to a driver. As shown in the attached and marked-up copy of Fig. 8 of Kufel, the staple under the driver 22 corresponds to the leading-end staple. Therefore, the member labeled 36 that the Office Action alleges corresponds to the pusher of claim 1 does not support the leading end staple as recited in claim 1. In Figs. 8-10 of Kufel, no part of the leading-end staple is supported by the member 36. In Fig. 11 of Kufel, it may appear that the member 36 supports the leading-end staple. However, the upper portion of the leading-end staple is actually supported by anvil 33. Only the first and second end portions of the leading-end staple (that is, leg portions of the staple) are in contact with the beveled faces 38 shown in Kufel (see Fig. 4). Therefore, Figs. 8-11 of Kufel show that the pusher never supports “the center in the lengthwise direction of the upper portion of the leading-end staple” as

recited in claim 1. Thus, Kufel does not disclose "a support surface that supports the center in the lengthwise direction of the upper portion of the leading-end staple" as recited in claim 1.

For at least the foregoing reasons, Applicant respectfully asserts that claims 1-5 are in condition for allowance.

### **CONCLUSION**

It is respectfully submitted that all claims are now in condition for allowance, early notice of which would be appreciated. Should the Examiner disagree, Applicant respectfully requests a telephonic or in-person interview with the undersigned attorney to discuss any remaining issues and to expedite the eventual allowance of the claims.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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